

16 September 2010

The General Manager
Pittwater Council
PO Box 882
MONA VALE NSW 1660

Attn Ms Amy Allen

Dear Ms Allen,

RE ADDITIONAL INFORMATION - DA NO 366/10
PREMISES 186 MCCARRS CREEK ROAD, CHURCH POINT
ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING, AN INCLINATOR
& A BOATSHED

I refer to the above Development Application currently under your consideration and to your correspondence dated 22 July 2010

In response to the issues raised by Council in its assessment, I offer the following additional plans prepared by Sammy Fedele, dated 13 September 2010 which seek to revise the proposal to address the issues relating to the location of the boatshed and to delete the relocated retractable awning. The revisions result will ensure that there is no increase in site coverage beyond the existing site coverage.

The revisions are discussed in detail below

#### > D4 6 Side and rear building line

The revised design increases the side setback of the proposed boatshed to a minimum of 1 0m in accordance with Council's controls

#### > D4 7 Foreshore building line

As requested, a SEPP 1 submission has been prepared to support the proposed boatshed facility The submission is attached as Appendix 1

The proposed retractable awning has been deleted from the proposal and will be removed from the site

#### > D4 7 Foreshore building line and D15 15 Marine facilities

We note Council's concerns regarding the proposed shower and toilet facility

within the boatshed and the drawings have been revised to remove the proposed storage area. As the boatshed is substantially lower than the dwelling, my client is seeking Council's consent for a toilet facility to utilise when he is working on his boat, jetty or the foreshore area.

In recognition of Council's concerns regarding any possibility that the boatshed may be utilised as a separate occupancy in the future, my client is quite willing to accept a specific condition of consent to that effect to restrict its use to a building that is ancillary to the main dwelling

If more acceptable to Council, we are prepared to provide an appropriate legal restriction on the title to formally advise any future owners that the building is not for separate occupancy

#### > D4 10 Site coverage – Environmentally Sensitive Land

The revised design seeks to remove the retractable awning structure and with majority of the works either under the existing dwelling or over existing hard stand area, the site coverage will be largely unchanged. We note that the proposed boatshed will essentially see the relocation of the boatshed previously approved under DA N0039/07

We look forward to discussing the proposal with Council and should you require additional information please do not hesitate to contact me on 9999 4922 or 0412 448 088

Yours faithfully,

VAU**G**HAN MILLIGAN

(attach – SEPP 1 submission)

# OBJECTION UNDER STATE ENVIRONMENTAL PLANNING POLICY NO 1 - DEVELOPMENT STANDARDS

#### 186 McCARRS CREEK ROAD, CHURCH POINT

### ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING HOUSE, & AN INCLINATOR & A BOATSHED

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE FORESHORE BUILDING LINE AS DETAILED IN CLAUSE 7(4) OF THE MODEL PROVISIONS ADOPTED BY PITTWATER LOCAL ENVIRONMENTAL PLAN 1993

#### Introduction

This objection is made pursuant to the provisions of Clause 6 of State Environmental Planning Policy No 1 (SEPP No 1) in this regard it is requested Council support a variation with respect to compliance with the foreshore building line as described in Clause 15 of the Mosman Local Environmental Plan 1998 (MLEP 1998)

#### 1 Is the control to be varied a development standard?

Clause 7 of the Model Provisions allows Council to fix by resolution a building line to the waterway

Pittwater Council has resolved a foreshore building line to McCarrs Creek which is noted on Council's mapping system

The proposed boatshed will breach the resolved foreshore building line, which is contrary to Clause 7(4) of the Model Provisions. The controls of Clause 7(4) are considered to be a development standard as defined in the Environmental Planning and Assessment Act, 1979.

### 2 What is the underlying object or purpose of the development standard?

The underlying purpose of the development standard is to control development within the resolved foreshore building line area

The controls of Clause 7(4) of the Model Provisions are further supported by Pittwater21 DCP Clause D4 7 which notes the form of acceptable development within the foreshore building line setback area

### 3 Is compliance with the development standard consistent with the aim of SEPP No 1?

The aim of SEPP No 1 is noted as

Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act

In this regard the objects of Section 5(a)(i) and (ii) of the Act are

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (II) The promotion and co-ordination of the orderly and economic use and development of land,

In this regard it is considered that the development standard is not consistent with the aim of SEPP No 1 as it does not allow flexibility in building design in this instance as the development, whilst meeting the aims of the standards by providing a development of a bulk and scale that is compatible with similar developments in the area and that relates well in its context, is located within the foreshore building line area

## 4 Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case

It is considered that compliance with this standard is unnecessary as the proposed development will provide for a recreational facility for the site and the owners which is consistent with other similar maritime based facilities in this locality. Boatshed structures are commonly located within the Pittwater foreshore area

## 5 Would strict compliance tend to hinder the attainment of the objectives of the act?

The relevant objectives of the Act are as follows

- 5(a)(i) [to encourage] the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment
- 5(a)(II) [to encourage] the promotion and co-ordination of the orderly and economic use and development of land

As the non-compliance does not create any unacceptable amenity impacts on neighbours related to visual bulk, overshadowing and privacy and continues to maintain

a suitable level of soft landscaping, compliance with the foreshore building line control is unnecessary and unreasonable in the circumstances of the case

The application also provides for the proper management of the property and the orderly and economic use of the land in accordance with the applicable environmental planning control regime

Accordingly, it is clear that the objectives of Section 5(a)(i) and (ii) of the Act have been met

#### 6 is the objection well founded?

It is considered that a variation to the foreshore building line controls can be supported on merit for the following reasons

- a The proposal is consistent with the height and scale of adjoining boatshed structures dwellings
- b The proposal will not impact significantly on public or private views. The proposed development satisfies Council's view sharing objectives.
- c The proposal does not create any adverse amenity impacts on adjoining neighbours in terms of privacy or solar access
- d The proposal meets the controls of Pittwater21 DCP D4 7 as relating to the form and style of boatshed facilities

#### 7 Conclusion

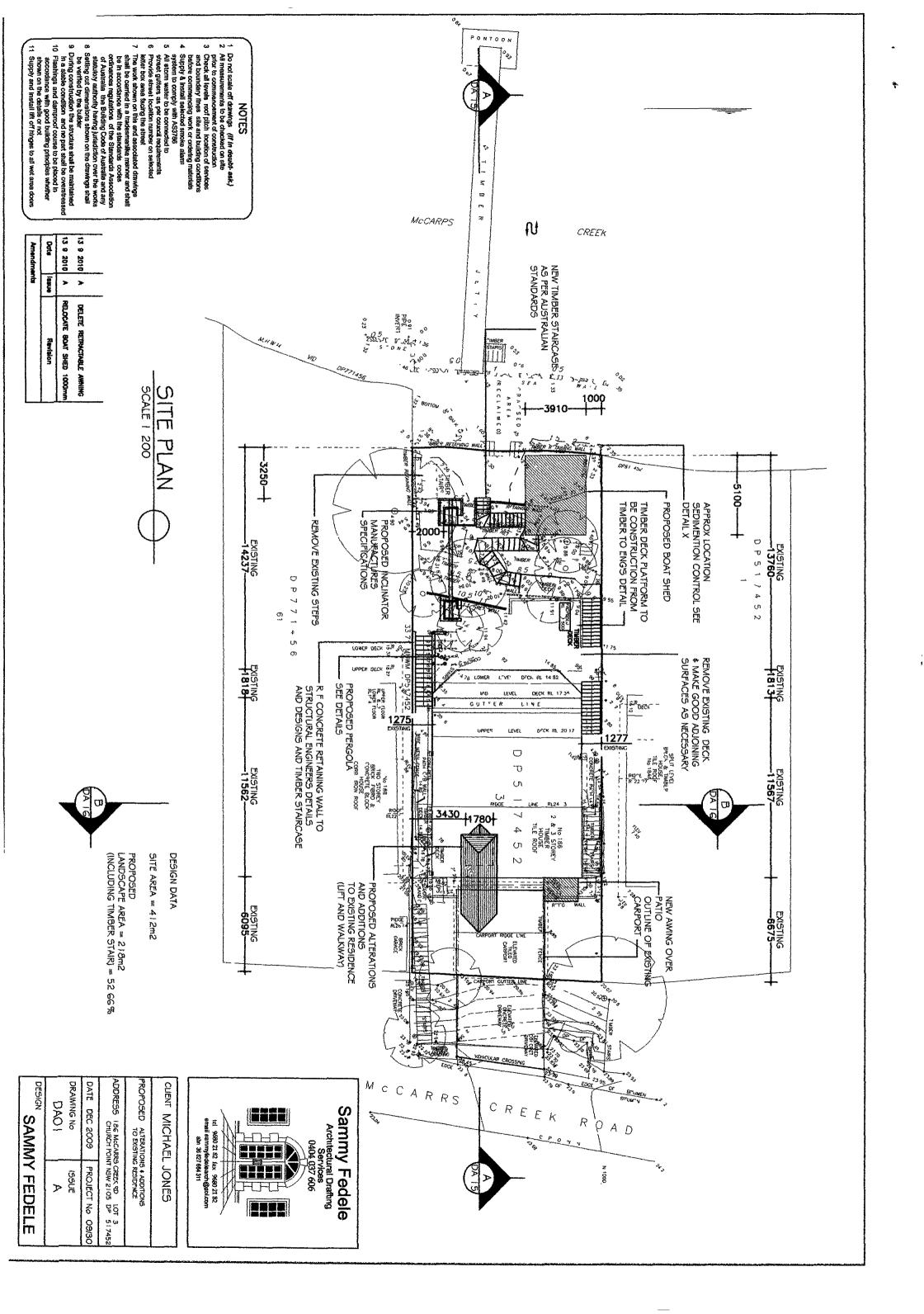
This objection to Clause 7(4) of the Model Provisions as adopted by Pittwater Local Environmental Plan 1993 adequately demonstrates that the objectives of the standard and the supporting Pittwater21 DCP will be met

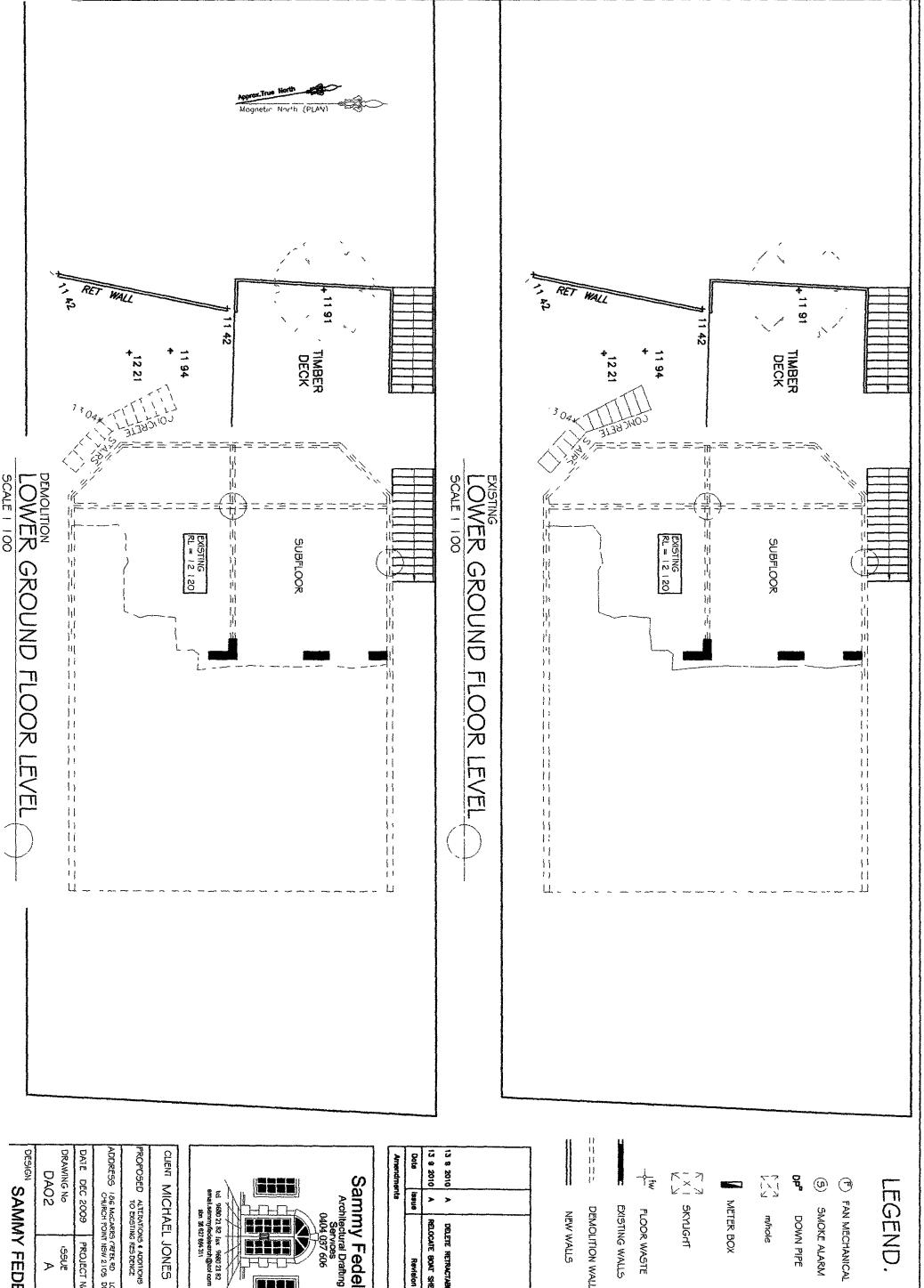
The visual bulk and scale of the proposal are acceptable and the height, form and design of the boatshed are appropriate for the site and locality

Council's support of the proposed variation to the foreshore building line control is sought in this instance

**VAUGHAN MILLIGAN** 

Town Planner

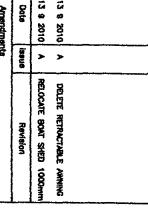




DOWN PIPE

EXISTING WALLS FLOOR WASTE

DEMOLITION WALLS NEW WALLS





SAMMY FEDELE	DRAWING No DAO2	DATE DEC 2009	ADDRESS I DE MCCARRS CRIEK RD LOT 3 CHURCH FOINT NOW 2105 DF 517452	PROPOSED ATERATIONS & ADDITIONS TO EXISTING RES DENCE	
	,55UE A	PROJECT No 09/30			(14)
Marine and a					

